

LABOUR DEPARTMENT

The 23rd December, 1982

No. 9(182-5Lab/12311).—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Haryana Roadways, Rohtak.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 92 of 1981

between

SHRI KANWAR SINGH, WORKMAN AND THE MANAGEMENT OF M/S HARYANA
ROADWAYS, ROHTAK

Present—

Shri Kanwar Singh, workman, in person.

Shri S. C. Singhal for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor,— *vide* his order No. ID RTK 86-80/32009, dated 3rd July, 1981, under section 10(i)(c) of the Industrial Disputes Act, for adjudication of the dispute existing between Shri Kanwar Singh, workman and the management of M/s Haryana Roadways, Rohtak. The term of the reference was :—

Whether the termination of services of Shri Kanwar Singh was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties appeared on 12th October, 1981, filed their respective pleadings, on the basis of which the following issues were framed :

1. Whether the enquiry conducted by the management is fair and proper?
2. As per the term of reference?

Issue No. 1 was treated as preliminary. The management examined Shri Dilbag Singh and Shri Pawan Kumar as their witnesses and closed their case. The workman examined himself as his witness and closed his case. I heard the parties and have also gone through the evidence on record and decide the issues as under :—

Issue No. 1.—The management witness Shri Dilbag Singh who conducted the enquiry had proved the enquiry proceedings and further stated that he had given full opportunity to the workman for the cross-examination of the management witnesses and for the production of his defence. Another witness Shri Pawan Kumar proved the letters from Exhibit MW-2.1 to MW-2.9. I have gone through the enquiry proceedings as well as the findings of the Enquiry Officer. The Enquiry Officer has completely ignored the statement of the defence witness produced by the workman and he has not given any findings on the allegation of the workman given in his reply to the charge-sheet and which was also treated as his statement before the Enquiry Officer. The Enquiry Officer has discarded the statement of the witness Shri Devi Singh produced by the workman arbitrarily on the ground that he was unable to produce any solid proof of his journey on the day of occurrence when he had narrated the whole story of his journey from Delhi to Kharkhanda and when he was not even put any suggestion to the effect that he had not travelled by the bus on that day and was making false statement. In quite unambiguous terms the witness had stated that he had told the Inspector that when the bus was all right why he had taken out tickets from the conductor but the Inspector answered that it was their departmental matter and who was he to interfere. Shri Devi Singh is an independent witness who had given his address to the workman on the day of occurrence to give his evidence at his call. The reply of the workman to the charge-sheet wherein he had given that the Inspector was being paid monthly Rs. 20 to 25 and his demand for the same was not met on the day of occurrence he made a false complaint against him was not considered by the Enquiry Officer as there is no mention of the same in his findings. On this score the findings of the Enquiry Officer cannot be held to be based on the evidential material before him. The findings are capricious and perverse as no reasonable person would have arrived at the conclusion in the same circumstances on which the Enquiry Officer has reached. The findings are, therefore, vitiated. The issue is accordingly decided against the management.

Issue No. 2.—In view of my findings on issue No. 1 while it has been held that the findings of the Enquiry Officer are perverse and not based on the material on record before the Enquiry Officer it has been held by the Hon'ble Kerala High Court in 1982 Lab. I. C. page 261, relying on the Supreme Court decision reported in 1973 Lab. I. C. page 851 and 1975 Lab. I. C. page 1441 that if the findings are found perverse there was no need to give another opportunity to the respondent management to supplement or improve upon the evidence adduced by them in the enquiry. I also don't find if the management had any other means to prove the charges levelled against the workman on the basis of which the management has terminated the services of the workman. I accordingly hold that the termination of the workman on the basis of the enquiry which has been held perverse is neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages. The reference is answered and returned accordingly.

Dated the 19th November, 1982.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement. No. 2615, dated the 20th November, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

M. KUTTAPPAN,
Commissioner and Secretary to Government, Haryana,
Labour Department.

Order

The 25th February, 1983

No. ID/GGN/24-83/8714.—Whereas the Governor of Haryana is of the opinion that an industrial dispute exists between the workman Shri Suresh and the management of M/s Metal Fold, 106-L, New Colony Gurgaon, regarding the matter hereinafter appearing ;

And whereas the Governor of Haryana considers it desirable to refer the dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana hereby refers to the Labour Court, Faridabad, constituted,—*vide* Government notification No. 11495-G-Lab/57/11245, dated 7th February, 1958, read with notification No. 5414-3Lab-68/15254, dated 20th June, 1968, under section 7 of the said Act, the matter specified below, being either matter in dispute or matter relevant to or connected with the dispute as between the said management and workman for adjudication :—

Whether the termination of service of Shri Suresh was justified and in order ? If not, to what relief is he entitled ?

No. ID/YMN/10-83/8721.—Whereas the Governor of Haryana is of the opinion that an industrial dispute exists between the workman Shri Vachas Pati and the management of M/s Uttam Restaurant, Workshop Road, Yamuna Nagar, regarding the matter hereinafter appearing ;

And whereas the Governor of Haryana considers it desirable to refer the dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana hereby refers to the Labour Court, Faridabad, constituted,—*vide* Government notification No. 11495-G-Lab/57/11245, dated 7th February, 1958, read with notification No. 5414-3 Lab-68/15254, dated 20th June, 1968, under section 7 of the said Act, the matter specified below, being either matter in dispute or matter relevant to or connected with the dispute as between the said management and the workman for adjudication :—

Whether the termination of service of Shri Vachas Pati was justified and in order ? If not, to what relief is he entitled ?